

COMMISSIONERS
SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

ORIGINAL

OPEN MEETING ITEM



0000160291

RECEIVED

ARIZONA CORPORATION COMMISSION

2015 FEB 12 P 2:53

DATE: FEBRUARY 12, 2015

DOCKET NO.: WS-02987A-06-0667

AZ CORP COMMISSION
DOCKET CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

JOHNSON UTILITIES, L.L.C.
(ORDER EXTENDING TIME DEADLINE IN DECISION NO. 70411)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

FEBRUARY 23, 2015

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

MARCH 2, 2015 and MARCH 3, 2015

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED

FEB 12 2015

DOCKETED BY	nr
-------------	----

JODI JERICH
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347
www.cc.state.az.us

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 SUSAN BITTER SMITH – Chairman
4 BOB STUMP
4 BOB BURNS
5 DOUG LITTLE
5 TOM FORESE

6
7 IN THE MATTER OF THE APPLICATION
7 OF JOHNSON UTILITIES, L.L.C., FOR AN
8 EXTENSION OF ITS CERTIFICATE OF
8 CONVENIENCE AND NECESSITY.

DOCKET NO. WS-02987A-06-0667

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE IN DECISION NO. 70411

9
10 Open Meeting
11 March 2 and 3, 2015
12 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 * * * * * * * * * *

14
15 Having considered the entire record herein and being fully advised in the premises, the
16 Arizona Corporation Commission (“Commission”) finds, concludes, and orders that:

17 **FINDINGS OF FACT**

18 1. On October 16, 2006, Johnson Utilities, L.L.C. (“Johnson” or the “Company”) filed
19 with the Arizona Corporation Commission (“Commission”) an application for an extension of it
20 water and sewer Certificates of Convenience and Necessity (“CC&N”) to include developments
21 known as Monterra, Montessa, Florence Plaza, and portions of Walker Butte, all located in Pinal
22 County, Arizona.

23 2. On July 3, 2008, the Commission issued Decision No. 70411, approving Johnson’s
24 application for an extension of its water and sewer CC&Ns, with conditions.

25 3. Decision No. 70411 required Johnson to file, among other things, within two years of
26 the effective date of the Decision:

27 a. Copies of the Approval to Construct (“ATC”) issued by the Arizona
28 Department of Environmental Quality (“ADEQ”) for the facilities needed for Phase 1
of each of the developments located within the requested extension area.

1 4. The Commission also ordered that Decision No. 70411:

2 [S]hall not become effective until the first day of the month after Johnson files with
3 Docket Control documentation from the Arizona Department of Environmental
4 Quality that the Pecan Wastewater System is in full compliance with Arizona
5 Department of Environmental Quality and Staff files confirmation of such compliance
6 with Docket Control, and the current rate case filing is found to be sufficient.¹

7 5. On August 6, 2012, the Commission's Utility Division ("Staff") filed confirmation that
8 Johnson's Pecan Wastewater System was in full compliance with ADEQ. Therefore, Decision No.
9 70411 became effective on September 1, 2012 and the compliance deadline for Johnson to file copies
10 of the ATC for Phase 1, were due September 1, 2014.

11 6. On July 7, 2014, Johnson docketed a letter requesting a two year extension of time,
12 until September 1, 2016, to file copies of the ATC issued by ADEQ for the water and wastewater
13 facilities needed for Phase 1 of each of the developments located within the requested extension
14 areas. Johnson's letter included updated requests for service from the developers of Monterra South
15 and Monterra North and stated that market conditions have delayed the anticipated start of the
16 developments.²

17 7. On January 23, 2015, Staff filed a Memorandum stating that Staff does not object to the
18 Company's request for an extension of time, until September 1, 2016, to file copies of the ATC as set
19 forth in Decision No. 70411.

20 8. Johnson has filed a timely request for an extension of the compliance deadline to file
21 copies of the ATC issued by ADEQ for the water and wastewater facilities needed for Phase 1 of
22 each of the developments located within the requested extension areas, as required in Decision No.
23 70411. Based on the developer/property owner's letter demonstrating a continuing need for Johnson
24 to provide water and wastewater services in the extension areas and Johnson's stated effect that the
25 economy has had on development in the extension area, we find that Johnson's request for an
26 extension of time to comply with Decision No. 70411 is reasonable and should be granted. However,
27 the Commission expects that that any further requests for an extension of time to comply with

28

¹ Decision No. 70411 at 13.

² On the same date, Johnson filed an amendment to its Section 11 Wastewater Treatment Plant in accordance with
compliance with Decision No. 70411.

1 Decision No. 70411 should demonstrate that extraordinary circumstances exists that warrant
2 additional time.

3 **CONCLUSIONS OF LAW**

4 1. Johnson is a public service corporation within the meaning of Article XV of the
5 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

6 2. The Commission has jurisdiction over Johnson and the subject matter of this
7 proceeding.

8 3. It is reasonable and in the public interest to grant Johnson's request for a time
9 extension to comply with Decision No. 70411.

10 **ORDER**

11 IT IS THEREFORE ORDERED that Johnson Utilities, L.L.C. is hereby granted an extension
12 of time, until September 1, 2016, to comply with Decision No. 70411 by filing copies of the
13 Approval to Construct, issued by the Arizona Department of Environmental Quality, for the water
14 and wastewater facilities needed for Phase 1 of each of the developments located within the requested
15 extension areas.

16 ...

17 ...

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

IT IS FURTHER ORDERED that any further requests for an extension of time to comply with Decision No. 70411 shall demonstrate that extraordinary circumstances exists that warrant additional time.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2015.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
YK:ru

1 SERVICE LIST FOR: JOHNSON UTILITIES, L.L.C.

2 DOCKET NO.: WS-02987A-06-0667

3

4 Daniel Hodges, Vice President
JOHNSON UTILITIES, L.L.C.
5230 East Shea Boulevard, Suite 200
5 Scottsdale, Arizona 85252

6 Jeffrey W. Crockett
BROWNSTEIN HYATT FARBER SCHRECK
7 One East Washington, Suite 2400
Phoenix, AZ 85004
8 Attorney for Johnson Utilities L.L.C.

9 Janice Alward, Chief Counsel
Legal Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
11 Phoenix, Arizona 85007

12 Steven M. Olea, Director
Utilities Division
13 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
14 Phoenix, AZ 85007

15

16

17

18

19

20

21

22

23

24

25

26

27

28